

72 Nov 2015

Year-end fatigue ~ It is that time of year again and year-end fatigue is evident all around.

There are high work volumes, eminent deadlines and subsidy and budget cuts. General home and work stresses compound the problem. Sick leave balances tend to grow, morale is low and everyone just had enough.

“It is not the best time to be making decisions to return to the job market. Chances are you are reacting out of pure exhaustion. Plan a holiday away with your family and get as much rest as possible. There is no other relief for exhaustion besides rest. During the months drawing towards the holidays; try to use your free time to do just that. Keep stress levels to a minimum by being proactive not reactive. When your holiday finally approaches, use it to rest because it is in the best interests of your employer, yourself and most importantly your family.” <http://taryng.co.za/employee-burnout-useful-guidelines-on-dealing-with-year-end-exhaustion-in-the-workplace/>

We all know families tend to come down to the coast to visit families during December - but it places a burden on you living here. It means you'll be even more exhausted at the end of the holiday. Say no for a change. Get some well-deserved rest yourself; then you'll have energy to return to the drawing board in 2016. Take care.

Life is a grindstone. But whether it grinds us down or polishes us up depends on us.

L. Thomas Holdcroft



Troubles, like babies, grow larger by nursing.

Lady Holland.

Common law contract of employment ~ Part 8 (termination COE continued)

Summary termination of the contract — The contract of employment (COE) can be summarily terminated by the employer when an employee commits an act which is a material breach; when the act makes the continuation of the COE untenable for the employer. For example, when an employee commits an offence for which the sanction is dismissal, the employer is always obliged to follow a fair procedure before summary dismissal may take place. Summary dismissal means the employee's COE is terminated immediately, without notice with effect from the date of the decision by the presiding officer at the disciplinary hearing that dismissal is the sanction. No severance package is paid or payment in lieu of notice.

There are times when employers are in material breach of the contract and an employee terminates the contract summarily. Instances that can give occasion to this are if an employer fails to pay the employee for work done in accordance with the contract, or the employer changes COE unilaterally which are less favourable, or demotes the employee without good reason or following a fair procedure.

Constructive dismissal - Another reason for an employee to terminate the COE summarily is when the employer makes the working life of the employee so intolerable that the employee no longer wishes to continue employment. This is known as constructive dismissal, but is not encountered often. The onus on the employee to prove his/her case is so onerous that the prospects of success are low which results in few employees taking this option. Another form of constructive dismissal is where the employer changes COE of an employee to far less favourable which the employee finds intolerable and resigns as a result. Constructive dismissal is also known as “forced resignation”. Harassment of an employee to an extent where the employee feels afraid to go to work and feels compelled to resign could also be a form of constructive dismissal.

Redundancy — It happens, with the technological advances taking place, that, from time to time, positions become redundant and the employment contract of those affected has to be terminated. Once again, a fair procedure has to be followed, which is similar to that followed in staff reductions for operational reasons as set out in Section 189 of the Labour Relations Act.

Insolvency — In the event of the sequestration of the employer, all COE between employer and employees terminate. Former employees may claim upon the employer's estate for salary or wages as prescribed in the Insolvency Act.

Completion of a project - It stands to reason that if an individual is employed for a particular project, the COE terminates on completion of the contract without further ado.

Prof Norman Kemp, Former National President, NTEU